

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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|---------------------------|---|-------------------------|
| WESLEY LAMAR TUFF, JR., | : | |
| | : | |
| Petitioner, | : | |
| | : | NO. 5:08-CR-00065 (CAR) |
| v. | : | NO. 5:12-CV-90147 (CAR) |
| | : | |
| UNITED STATES OF AMERICA, | : | |
| | : | |
| Respondent. | : | |
| _____ | : | |

ORDER ON RECOMMENDATION

Before the Court is the Recommendation of the United States Magistrate Judge [Doc. 63] to grant Petitioner Wesley Lamar Tuff, Jr.'s Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Docs. 59, 61]. No objection was filed, and having considered the Recommendation, the Court agrees with the findings and conclusions of the United States Magistrate Judge. Petitioner is entitled to be resentenced in accordance with the more lenient statutory penalty provisions of the Fair Sentencing Act of 2010 ("FSA") in light of the Supreme Court's holding in *Dorsey v. United States*, 132 S. Ct. 2321 (2012).

Accordingly, the Recommendation of the United States Magistrate Judge [Doc. 63] is **ADOPTED** and **MADE THE ORDER OF THE COURT**. Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Docs. 59, 61] is

GRANTED, and Petitioner's prior sentence is **VACATED**.¹ The Probation Office is **HEREBY DIRECTED** to prepare a new Presentence Investigation Report ("PSI") in accordance with the FSA's revised guidelines. Upon receipt of the completed PSI, the Court will promptly set a hearing date for Petitioner to be resentenced by Judge Hugh Lawson, the original sentencing judge. Petitioner shall remain in the custody of the Federal Bureau of Prisons (and/or the United States Marshals Service) pending his resentencing hearing, when the Clerk of Court will writ the Petitioner back to the Middle District of Georgia.

SO ORDERED, this 29th day of January, 2013.

S/ C. Ashley Royal
C. ASHLEY ROYAL, CHIEF JUDGE
UNITED STATES DISTRICT COURT

BBP/ssh

¹ Based on this ruling, the Government's pending Rule 35 Motion [Doc. 58] is hereby **TERMINATED AS MOOT**.